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ATHLETIC ASSOCIATION

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
OAKLAND DIVISION**

18 | IN RE COLLEGE ATHLETE NIL
LITIGATION

Case No. 4:20-cv-03919 CW

**DECLARATION OF RAKESH N.
KILARU IN SUPPORT OF
DEFENDANTS' OPPOSITION TO
MOTION TO MODIFY CASE SCHEDULE**

1 I, Rakesh N. Kilaru, declare as follows:

2 1. I submit this declaration in support of Defendants' Opposition to Plaintiffs' Motion
3 to Modify the Case Schedule.

4 2. I am an attorney at Wilkinson Stekloff LLP and am licensed to practice law in the
5 District of Columbia. I represent the National Collegiate Athletic Association ("NCAA") in this
6 litigation. The facts set forth herein are of my own personal knowledge and, if called to testify
7 under oath, I could and would testify competently thereto.

8 3. Plaintiffs initiated this litigation nearly two years ago, on June 15, 2020. *House*
9 ECF No. 1.

10 4. On December 3, 2020, Plaintiffs agreed, in the parties' Joint Stipulated Case
11 Management Order, to a discovery schedule that provided roughly six months of discovery before
12 a substantial completion deadline of June 1, 2021. *House* ECF No. 127, *Oliver* ECF No. 94.
13 Discovery had commenced on November 19, 2020. *Id.*

14 5. On December 2, 2020, Plaintiffs served Defendants with 44 requests for production
15 of documents covering a broad range of topics.

16 6. On January 15, 2021, Defendants sought to stay discovery pending the Court's
17 resolution of Defendants' motion to dismiss and the Supreme Court's resolution of *NCAA v. Alston*
18 and *American Athletic Conference*. Plaintiffs opposed and the Court denied a stay. *House* ECF
19 No. 149, *Oliver* ECF No. 116.

20 7. The parties met and conferred throughout the spring of 2021. On May 24, 2021, to
21 provide time for Defendants to comply with Plaintiffs' broad requests, the parties stipulated to a
22 three-month extension of the date for substantial completion of document production, and a
23 corresponding extension of other case deadlines. *House* ECF No. 150, *Oliver* ECF No. 117.

24 8. On July 1, 2021, the NCAA implemented its interim name, image, and likeness
25 ("NIL") policy.

26 9. After the July NIL policy change, Plaintiffs demanded that Defendants supplement
27 their document productions and respond to a second set of requests for production of documents.

1 See ECF No. 174. Plaintiffs also asked Defendants to modify the scheduling order to
2 accommodate this additional discovery. *Id.* Defendants agreed to do all of this. *Id.* Accordingly,
3 on November 5, 2021, the discovery deadlines were shifted again as requested by Plaintiffs, this
4 time by an additional seven months to a substantial document production completion date of April
5 1, 2022. *Id.*

6 10. On September 20, 2021, Plaintiffs served their first third-party subpoenas.
7 Numerous schools were subpoenaed in September, but numerous others were not subpoenaed until
8 this year, as late as February 17 and March 23, 2022.

9 11. In total to date, Plaintiffs have sought discovery from 153 Division I institutions,
10 28 individuals, 22 companies, and 8 sports leagues and players associations, for a total of 211 third
11 parties.

12 12. Plaintiffs complain they have not received adequate or timely responses to their
13 subpoenas, but have filed only a handful of motions to compel.

14 13. On March 11, 2022, Plaintiffs requested that the parties convene for a call to discuss
15 the case schedule. On March 14, Plaintiffs clarified that they wanted to discuss an extension to
16 the class certification motion deadline and the remaining schedule. A call was held on March 17,
17 during which Plaintiffs requested that the schedule for class certification be pushed back by four
18 months.

19 14. On March 28, 2022, Defendants informed Plaintiffs that though they opposed a
20 four-month extension of the class certification timeline, they would be willing to agree to an
21 extension if Plaintiffs agreed not to seek a further extension in class certification briefing beyond
22 these four additional months and Plaintiffs agreed not to serve any further requests for production
23 on Defendants.

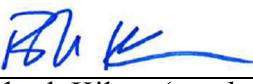
24 15. All Defendants have met the April 1, 2022 substantial document discovery
25 completion date. To do so, the NCAA produced 37,255 documents, the Southeastern Conference
26 produced 16,689 documents, the Pacific-12 Conference produced 10,638 documents, the Big Ten
27 Conference produced 20,747 documents, the Big 12 Conference produced at least 5,242
28

1 documents, and the Atlantic Coast Conference produced 22,553 documents, for a total of over
2 113,000 documents.

3 I declare under penalty of perjury under the laws of the United States of America that the
4 foregoing is true and correct to the best of my knowledge and belief.

5 Executed this 7th day of April, 2022 at Washington, District of Columbia.

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8

9 By: 

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